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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
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10 OSSIE LEE SLAUGHTER,

11 Plaintiff,

12 v.

13 DOUGLAS JONES, C/O VILLAREAL,
14 RICHARD MORGAN, CHRISTINE
15 BRULE, DIANE SANCHEZ, JEFFREY
16 UTTECHT, MICHELLE DUNCAN,
17 SHANE RIRIE, PA DELPH, D.
18 SCANTLIN, JACKEY L. FLUIATT,
19 JOSHUA CRUGER and MARK LEIGH,

20 Defendants.

4:17-cv-05027-SAB

**ORDER ADOPTING REPORT
AND RECOMMENDATION,
DENYING LEAVE TO
PROCEED *IN FORMA*
PAUPERIS, DISMISSING
ACTION AND DENYING ALL
PENDING MOTIONS AS MOOT**

21 BEFORE THE COURT is Magistrate Judge John R. Rodger's Report and
22 Recommendation to deny Plaintiff leave to proceed *in forma pauperis* as precluded
23 under 28 U.S.C. § 1915(g), to dismiss the action for failure to pay the filing fee
24 under 28 U.S.C. § 1914, and to deny all pending motions. ECF No. 18. After being
25 granted additional time, Plaintiff, a *pro se* prisoner at the Washington State
26 Penitentiary filed timely Objections on October 27, 2017, ECF No. 22. He also
27 filed a Motion for telephonic appearance, which he noted for hearing on November
28 27, 2017.

**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING
LEAVE TO PROCEED *IN FORMA PAUPERIS*, DISMISSING ACTION
AND DENYING ALL PENDING MOTIONS AS MOOT -- 1**

1 The Court has reviewed the record, including Plaintiff's Objections totaling
2 99 pages and is fully informed. Plaintiff was granted the opportunity to show cause
3 why he should be allowed to proceed *in forma pauperis* in these proceedings under
4 28 U.S.C. § 1915(g), and failed to do so. He did not counter the Court's finding
5 that three or more of his prior actions were dismissed as frivolous or malicious, or
6 for failure to state a claim, ECF No. 13 at 2, although he now claims the Ninth
7 Circuit erroneously dismissed *Slaughter v. Sinclair*. ECF No. 22 at 12.

8 The Honorable Lonny R. Suko dismissed *Slaughter v. Sinclair, et al.* 2:11-
9 cv-00430-LRS, with prejudice for failure to state a claim upon which relief may be
10 granted on July 30, 2012, ECF No. 48. Plaintiff appealed that decision to the Ninth
11 Circuit Court of Appeals, and on November 8, 2012, the Court of Appeals denied
12 Mr. Slaughter's motion to proceed *in forma pauperis* because they also found his
13 appeal to be frivolous in cause number 12-35686. The Mandate was issued on
14 December 17, 2012, when the filing fee was not paid. Plaintiff presents no facts in
15 support of his contention that the dismissal was erroneous.

16 Plaintiff asserts that he should be allowed to amend his complaint. ECF No.
17 22 at 2. He was granted the opportunity to present facts showing he was under
18 imminent danger of serious physical injury when he lodged his complaint on
19 March 20, 2017, ECF No. 13 at 4, and he did not do so. His assertions that he is
20 continuously placed in the Intensive Management Unit, falsely fractured, denied
21 legal supplies, and subjected to cell searches, ECF No. 22 at 12, do not make the
22 requisite showing. Grievances, kites and disciplinary actions occurring in August,
23 September and October 2017, ECF No. 22-1, have no relevance to whether
24 Plaintiff was under imminent danger of serious physical injury in March 2017.
25 Consequently, Plaintiff is precluded from proceeding in this action *in forma*
26 *pauperis* under 28 U.S.C. § 1915(g).

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**ORDER ADOPTING REPORT AND RECOMMENDATION, DENYING
LEAVE TO PROCEED *IN FORMA PAUPERIS*, DISMISSING ACTION
AND DENYING ALL PENDING MOTIONS AS MOOT -- 2**

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. For the reasons set forth by the Magistrate Judge, the Report and
3 Recommendation, ECF No. 18, is **ADOPTED IN ITS ENTIRETY**.

4 2. Plaintiff's application to proceed *in forma pauperis*, ECF No. 2, is
5 **DENIED**.

6 3. Although granted the opportunity to do so, Plaintiff did not pay the
7 \$400.00 fee (\$350.00 filing fee, plus \$50.00 administrative fee) to commence this
8 action. Therefore, this action is **DISMISSED** for failure to comply with the filing
9 fee requirements of 28 U.S.C. § 1914.

10 4. All pending motions are **DENIED as moot**.

11 5. The Court certifies any appeal of this dismissal would not be taken in
12 good faith.

13 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
14 enter judgment, forward a copy to Plaintiff and **close** the file.

15 **DATED** this 28th day of November 2017.



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A handwritten signature in blue ink, reading "Stanley A. Bastian", is written over a horizontal line.

22 Stanley A. Bastian
23 United States District Judge
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